IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,

AT HYDERABAD

HON'BLE SRI JUSTICE V.V.S. RAO

W.P. No. 24818 OF 2002

Date: 11.08.2005

BETWEEN:

Rongala Raja Babu

…. PETITIONER

Vs.

1. The Government of A.P., rep. by its Principal Secretary,

Revenue Department, Secretariat, Hyderabad and others.

…. RESPONDENTS

ORDER:

The petitioner is a driver in the Government service. He assails the action of the sixth respondent in issuing notice dated 28.10.2002 directing the petitioner to remove the house and compound wall in S.No.145/2 admeasuring Acs.0.24 in Peenaripalem of Narsipatnam, Visakhapatnam District. He seeks a Writ of Mandamus declaring the said letter as illegal and for a consequential direction to respondents 1 to 3 (Revenue Officials) to issue patta in respect of the vacant site admeasuring Acs.0.24.

In his affidavit accompanying the writ petition, the petitioner alleges that his father constructed thatched house in S.No.145/2, which is a Government poramboke land; that after obtaining permission from Gram Panchayat, Narsipatnam on 3.5.1977 they constructed house; and that they applied to the third respondent for grant of patta. The petitioner also alleges that he belongs to backward class and is working as a Jeep Driver, and that whenever, the sixth respondent issued notices at regular intervals alleging that the petitioner encroached upon the Government land, he went on giving replies, but still the impugned letter was issued.

In the counter affidavit filed by the 5th respondent, it is stated that the petitioner has encroached the Government site and constructed a house without obtaining any permission. According to the 5th respondent, the Sub Division Office, Narsipatnam of Roads and Buildings falls in S.No.151/2, 141/P, 145/2, 146, 149, that the petitioner started unauthorized construction in S.No.145/2, that number of

notices were issued to him and that the Revenue officials did not grant any patta in favour of the eptitioner. As the petitioner unauthorisedly encroached the Government land belonging to Roads and Buildings Sub-Division Office, a notice was issued.

Heard learned counsel for the petitioner and learned Government Pleader for Roads and Buildings. Though counter affidavit is filed denying the right of the petitioner and the same was served on the petitioner some time in July 2003, the petitioner has not chosen to file reply affidavit. Therefore, the counter averments have been unrebutted.

Merely because the petitioner made a representation to the Revenue officials for grant of patta, it does not confer any right on him to occupy a portion of the office premises belonging to Roads and Buildings Sub-Division Office. Therefore, when the sixth respondent, who is the In-charge of the said office, issued notice to the petitioner to vacate the office premises, he is only complying with the minimum requirement of fairness in issuing notice, and it does not in any manner confer any right on the petitioner. Unless and until a person has an enforceable right or a duty is cast on the public authorities, no writ would lie to adjudicate civil rights in relation to immovable property, especially when petitioner can avail common law remedy.

The Writ Petition is devoid of merits and is accordingly dismissed. No costs.

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(**V.V.S. RAO, J.)**

11th August, 2005

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